

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DANNY MANZANARES,

Plaintiff,

vs.

No. CIV 05-00095 JP/LFG

**SEAN HIGDON, an Officer of the
Albuquerque Police Department,
Individually,**

Defendant.

**EMERGENCY MOTION FOR EXTENSION OF TIME
TO RESPOND TO PLAINTIFF'S MOTION TO TAX COSTS AND
MOTION FOR ATTORNEYS' FEES AND EXPENSES**

COMES NOW Defendant Sean Higdon, by through his counsel of record, Kathryn Levy, Deputy City Attorney, and hereby requests this Court for an emergency extension of time until and including close of business on April 6, 2010 to file the responses in opposition to Plaintiff's Motion to Tax Costs [Docket No. 166] and Plaintiff's Motion for Attorneys' Fees and Expenses [Docket No. 169]. As grounds in support of this motion, Defendant states:

1. On March 25, 2010, this counsel filed a motion seeking until and including April 2, 2010 to submit defendant's opposition to plaintiff's post trial motions for attorneys' fees and costs. The reason therefore was to allow the parties to discuss the possible resolution of the claims without the need for court intervention. Unfortunately, as of April 1, 2010, the parties' good faith discussions did not result in a resolution of the matter and the motions should be heard on their merits.

2. At the time defendant filed the third motion, defendant did not believe he would need more than an extension until April 2, 2010 to complete and file his responses regardless of the outcome of the informal discussions. Defendant was overly optimistic as both computer problems at the City Attorney's Office and a personal family problem by defendant's counsel interfered with finalizing the responses on April 2 or over the weekend. Defendant requests two additional days, until the close of business on April 6, 2010, to complete the responses and to insure that all meritorious issues are squarely before the court in deciding this important post trial issue. Alternatively, defendant prays the Court permit filing the responses out of time until, and including, close of business on April 6, 2010.

3. Defendant did not attempt to file this motion earlier as the Court website indicated it would be down for maintenance from 5:30 pm , April 2, 2010, until 8:00 am, April 5, 2010.

4. Counsel for plaintiff, Dennis W. Montoya, has not been contacted due to the emergency nature of this motion but will be contacted forthwith and his position on the relief sought herein will be provided to the Court in an amended motion.

WHEREFORE, Defendant respectfully requests an extension until close of business April 6, 2010 to file the responses to Plaintiff's Motion to Tax Costs and Plaintiff's Motion for Attorneys' Fees and Expenses.

Respectfully submitted,

CITY OF ALBUQUERUE
Robert M. White
Acting City Attorney

/s/ Kathryn Levy
Kathryn Levy
Attorney for Defendant
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I HEREBY CERTIFY that on this 5th day
of April, 2010, the foregoing was served via
electronic filing to :

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Attorney for Plaintiff

/s/ Kathryn Levy
Kathryn Levy